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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/808,028

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Karl-Heinz Lemken

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EXAMINER

LOWE, MICHAEL S

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/808,028	Applicant(s) LEMKEN ET AL.	
	Examiner Michael Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 3/8/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed adjustable relative movement between the second mobile carriage and the carrying rack for the transport device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper (see paragraphs [0002], [0004], [0016] & [0024], pages 1,5 & 6). Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 9-11, claim 9 depends from claim 1 which is a "device for transport" but claim 9 is directed to a "device for heat treatment" making it unclear what the claim is trying to claim. For sake of examination, it is assumed that the claim is just further defining the device of claim 1 by recited the intended location it is used in.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,6-10,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helin (US 3,014,708) in view of Peyton (US 6,676,355).

Re claim 1, Helin teaches a device for transport of metallic work pieces (generally 10), during a heat treatment process, comprising a heat-insulated and vacuum-tight transport chamber (generally 3 or 4) for heat transports (generally 10), a transport device (other of 3,4) for cold transports (generally 10), and a common drive (not numbered) for the transport chamber and the transport device.

Helin is silent on the mobile carriage (generally 5) being two carriages coupled together. However, Peyton teaches two carriages (not numbered, but shown in figures as the carriages of 2.40 and 2.50 or 3.40 and 3.50) with each carrying a different load. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Helin by the general teaching of Peyton to make the carriage 5 separable and thus have a second mobile carriage wherein the first carriage supports the carrying rack for the transport chamber and the second carriage supports the carrying rack for the transport device in order to provide an expedient to allow for the versatility of only having to replace one small carriage instead of the entire large carriage when there is damage done to the carriage.

Re claim 3, Helin teaches a carrying rack (not numbered, see figure) located relative to the carriage for the transport chamber (generally 3,4) and the transport device (generally 3,4).

Re claim 6, Helin teaches the transport chamber and the transport device (generally 3,4) are each equipped with a separate loading system (column 3).

Re claim 7, Helin teaches the transport device (generally 3,4) equipped with a loading table (not numbered, see figure).

Re claim 8, Helin teaches the transport device (generally 3,4) is a second transport chamber.

Re claim 9, Helin teaches a system for heat treatment especially of metallic work pieces (generally 10), with a multitude of separate treatment chambers (generally 1,2,3,4) comprising a transport device (generally 3,4,5).

Re claim 10, Helin teaches the transport chamber (generally 3,4) and the transport device (generally 3,4) can be loaded and unloaded independently of one another.

Re claim 12, Helin as already modified teaches (column 2) that the transport device (generally 3,4) is movable relative the second mobile carriage and it would be understood that thus the carry rack for the transport device would also be movable relative the second mobile carriage. Since Helin does not explicitly state that the carry rack for the transport device is movable relative the second mobile carriage, it is noted It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Helin to have the carry rack for the transport device is movable

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relative the second mobile carriage in order to allow from easier adjustments and allow for greater versatility in dealing with chambers and loaders of different heights.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Helin (US 3,014,708) in view of Peyton (US 6,676,355) and Muller-Ziller (US 6,749,800).

Re claim 11, Helin is silent on whether the transport device (generally 3,4) can be loaded and unloaded on both sides. Muller-Ziller teaches (figure 2) the ability to load from/to at least two different sides of a transport device (generally 70 (10)) in order to save time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Helin by the teaching of Muller-Ziller to have the ability (and structure) to load from/to at least two different sides of a transport device in order to save time.

Conclusion

Applicant's arguments filed 3/8/07 have been fully considered but they are not persuasive.

Applicant argued that items 3 & 4 are both are configured for hot transport. However, items 3 & 4 are capable of transporting either hot or cold items as claimed and furthermore the terms of hot and cold are relative terms. Certainly one the contents of 3 & 4 is relatively hotter or colder than the other.

Applicant argued that Peyton does not teach the vacuum tight transport or combination with the common drive of Helin. However, Peyton is only used to teach as shown above, the usefulness of two mobile carriages that may be coupled together.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652

/M. S. L./
Examiner, Art Unit 3652